IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6336 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

RAMESH J PANDYA C/O JAYENDRA B RAJYAGURU

Appearance:

MR HARDIK C RAWAL for Petitioner

MR PH PATHAK for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 25/07/2000

ORAL JUDGEMENT

Heard learned counsel Mr. H.C. Rawal for the petitioner and learned counsel Mr. P.H. Pathak for the respondent.

2. Respondent Mr. Ramesh J. Pandya was working as conductor under petitioner GSRTC. While in service disciplinary proceeding was initiated against the respondent for committing misconduct of non issuing tickets to the passengers after collecting bus fare. During inquiry evidences were taken and inquiry report was submitted by the disciplinary authority and the charges were found to be proved. The disciplinary authority considering the report and after hearing respondent, dismissed the respondent from service by order dated 23-2-1995. But since the order was passed during strike period, respondent was reinstated by an order dated 25-7-1995, and when the strike was called off the penalty of dismissal was issued on 10-5-1996. Departmental appeals were rejected by the authority. The respondent thereafter moved the Government for referring the dispute to the Labour Court. Government has accordingly referred the dispute of the respondent to the Labour Court, Amreli, which registered the case as Reference (LCA) No: 466 of 1998. Labour Court Amreli, after taking evidence and after hearing parties set aside the order of dismissal dated 25-7-1995 and directed the Corporation to reinstate the respondent in his original post. However Labour Court did not allow any back wages to the respondent,but penalty of stoppage of one increment with cumulative effect was imposed by the Labour Court. Having felt aggrieved by the judgment & award passed by the Labour Court, Amreli on 5-11-1999,the Corporation filed present petition to set aside the judgment & award of the Labour Court.

3. Mr. Rawal, learned counsel appearing on behalf of the petitioner submitted that the petitioner is a conductor working in the Corporation and during surprise check it was found that, inspite of collecting bus fares he has not issued tickets to the passengers, thereby causing loss to the Corporation and misappropriating public money. Mr. Rawal accordingly submitted that when the charges have been proved in the departmental proceedings and the authority imposed penalty of dismissal from service, Labour Court should not have interfered with the penalty imposed by the authority. Mr. Rawal further submitted that in a case of misappropriation of public money for not issuing tickets to the passengers have been seriously viewed by this Court in earlier cases. Mr. Rawal consequently submitted that when the charges have been proved, Labour Court should not have taken a liberal view in the matter of penalty imposed. Mr. Rawal further submitted that this is not a fit case where Labour Court should have taken a liberal view. Since the offence relates to

misappropriation of public money, Labour Court should have viewed it seriously and should not have interfered with the penalty imposed by the disciplinary authority. Learned counsel further submitted that the Labour Court has committed an error in interfering with the penalty imposed by the authority, and, therefore, the judgment & award of the Labour Court should be quashed.

4. Mr. Pathak, learned counsel appearing on behalf of the respondent submitted that the respondent was charged for misconduct of not issuing tickets to the passengers. Mr. Pathak further submitted that non issuing of tickets by respondent may be due to various reasons. When there is great rush in the bus it may not be possible for the conductor to collect money and issue tickets to the passengers. Some times the passengers also avoid payment to the conductor. Mr. Pathak accordingly submitted that in the present case it is not the case of misappropriation of public money. At the most it may amount to negligence on the part of the respondent which do not deserve penalty of dismissal from service. Mr. Pathak accordingly submitted that the Labour Court has considered evidence adduced by the parties as well as documents submitted before him and after considering all these evidence, he has come to the conclusion that the penalty imposed on the respondent is disproportionate to the offence alleged to have been committed by the respondent. Mr. Pathak further submitted that the Labour Court after considering evidence has taken a view and that decision should not be interfered with by this Court in a writ jurisdiction.

5. It is an admitted fact that the charge against the respondent for misconduct have been proved and therefore withholding of one increment may not be a sufficient punishment for such an offence. Present offence relates to non issuing of tickets to passengers and thereby causing loss to the Corporation, and such misconduct cannot be taken so lightly. The Labour Court has withheld one increment, but I am of the view that, having regard to the nature of the offence committed by the respondent, withholding of three increments will meet the ends of justice. Accordingly, I do not interfere with the order of the Labour Court regarding reinstatement of respondent, but three yearly increments of the respondent shall be withheld with cumulative effect. With the aforesaid modification in the judgment & award of the Labour Court, this petition is allowed in part. Mr. Pathak submitted that, in compliance with the award of the Labour Court, the respondent has not yet been reinstated in service and the Corporation be

directed to reinstate the respondent within four weeks. Since there is no dispute about the order of reinstatement, I am of the view that the Corporation should immediately reinstate the respondent in service, within a period of four weeks from the date of receipt of this order. Rule made absolute to the aforesaid extent. No order as to costs. Direct service permitted.

DT: 25-7-2000 (P.K. Sarkar, J)

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